

Attachment 2

Environmental Obstacles

Currently under SAFETEA-LU there are many protections built in to the law to ensure that transportation projects are in compliance with federal and state environmental laws. Some of the requirements of SAFETEA-LU however do not add to protections afforded by other environmental laws but increase reporting and procedural requirements. Under both Federal and State law, the lead agency has a responsibility to produce documents that meet the requirements of other agencies and have a responsibility to include these agencies in the environmental process. SAFETEA-LU section 6002 required an additional designation of Participating agency that overlaps the Cooperating agency designation of NEPA and the responsible agency of CEQA yet requires additional steps and documentation in the project process. In addition, SAFETEA-LU section 6002 requires that lead agencies establish a plan for coordinating public and agency participation and comment during the environmental review process despite other legal requirements to complete this coordination.

SAFTETEA-LU also includes measures that have limited streamlining due to requirements limiting advanced design. Under specific circumstances SAFTETEA-LU section 6002 allows the lead agencies to develop the alternative that has been officially identified as the preferred alternative to a higher level of detail than the others however current FHWA review process has resulted in stringent guidelines that limit the applicability of this process. In addition, SAFTETEA-LU prevents "at-risk" design prior to the completion of the environmental document however there are many circumstances such as when there is only one alternative selected or where all alternatives have overlapping design elements where "at-risk" design could drastically speed up the design process with limited risk to legal challenge.